

Amendments to the Drawings:

Please replace Figures 1-15 with new Figures 1-15, which are attached hereto as replacement sheets.

REMARKS

Claims 2-18, 20-44, 47-49, and 51-52 are pending in the present application. Claim 2 has been amended. New claims 51 and 52 have been added, support for which is found in original claim 50, Figure 14, and paragraphs [0094]-[0095] on page 20 of the application. New claims 51 and 52 are readable upon the elected Species 3, illustrated in Figures 10-15.

Claims 17, 18, 29-36, and 49 have been withdrawn. However, because these claims all ultimately depend from generic claims that are believed to be allowable, Applicants respectfully request that the claims to the non-elected species be rejoined, examined, and allowed. See 37 C.F.R. § 1.141.

Reexamination of the application and reconsideration of the rejections and objections are respectfully requested in view of the above amendments and the following remarks.

A. Drawings

The drawings were objected to as containing photographs. Figures 1-15 have been amended and replaced with appropriate replacement drawings. No new matter has been added. Withdrawal of the objection is respectfully requested.

B. Double Patenting

Claims 3, 4, 6-16, 20, 22-28, 37-44, 47 and 48 were provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 2-14, 18-25, 34-41, 44, and 45 of copending Application No. 10/359,699.

Applicants respectfully request that that the provisional double patenting rejections in this application be withdrawn, thus allowing these claims to be allowed and the present application to issue. Any actual double patenting issues may then be dealt with in copending Application No. 10/359,699. See MPEP § 804 (I)(B).

C. Claim Rejections—35 U.S.C. § 102

Claim 2 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,293,928 to Balzer et al. Applicants respectfully traverse this rejection for the following reasons.

Claim 2 has been amended to recite that “the piercing or breaking member comprises at least two opposing members such that both opposing members are moved into the cavity upon movement of one of the first and second body portions relative to the other of the first and second body portions”. Support for the amendment is found in the application as filed at least in paragraph [0093] on pages 19-20 and in Figure 15.

To anticipate a claim, the reference must teach every element of the claim. MPEP § 2133.

Even if Balzer et al. discloses, as asserted by the Examiner in the Office Action dated November 16, 2004, a piercing or breaking member comprising two opposing members (the two opposing ends of the member 8), Balzer et al. does not disclose a piercing or breaking member comprising at least two opposing members such that both opposing members are moved into the cavity upon movement of one of the first and second body portions relative to the other of the first and second body portions. At most, Balzer et al. discloses that one opposing member is moved into the cavity (i.e., the sharp free edge 13 of cutting member 8).¹ Therefore, because all of the limitations of claim 2 are not taught in Balzer et al., this claim is not anticipated, and Applicants respectfully request that the rejection be withdrawn.

D. Allowable Subject Matter

Claims 5 and 21 were objected to as being dependent upon a rejected base claims, but were indicated to be allowable if rewritten in independent form. Upon withdrawal of the provisional double patenting rejections these objections will become moot.

Conclusion

For the foregoing reasons, claims 2-16, 20-28, 37-44, 47, 48, 51, and 52 are considered allowable. A Notice to this effect is respectfully requested. Applicants also respectfully request rejoinder and allowance of claims 17, 18, 29-36, and 49. If any questions remain, the Examiner is invited to contact the undersigned at the number given below.

Respectfully submitted,

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By:


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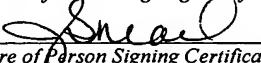
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Jennie Snead
(*Typed Name of Person Signing Certificate*)


(*Signature of Person Signing Certificate*)

Date of Signing: 10/13/05

¹ Applicants do not agree with the Examiner's assertion regarding the disclosure of Balzer et al., but have presented this argument and the corresponding amendment in order to advance prosecution of the application.